

ESTTA Tracking number: **ESTTA184887**Filing date: **01/07/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

| | | | |
|---------|--|-------------|---------------|
| Name | Lester H. Schweiss | | |
| Entity | Individual | Citizenship | UNITED STATES |
| Address | 4038 Avery Ln. Bridgeton, MO 63044 UNITED STATES | | |

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| Attorney information | Annette P. Heller Heller & Associates 14323 S. Outer Forty Dr. Suite 512 S Town & Country, MO 63017 UNITED STATES tmattorneyheller@aol.com,tmattorneyturek@aol.com Phone:(314) 469-2610 |
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Registration Subject to Cancellation

| | | | |
|-----------------|--|-------------------|------------|
| Registration No | 3157991 | Registration date | 10/17/2006 |
| Registrant | Family Watchdog LLC Suite 18-352 1950 E Greyhound Pass Carmel, IN 46033 UNITED STATES | | |

Goods/Services Subject to Cancellation

Class 045. First Use: 2005/04/10 First Use In Commerce: 2005/06/07
All goods and services in the class are cancelled, namely: Security services, namely, a sexual offender, crime and criminal registry, search, and notification service

Grounds for Cancellation

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|---|---|
| <i>Torres v. Cantine Torresella S.r.l.Fraud</i> | 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986) |
| Priority and likelihood of confusion | Trademark Act section 2(d) |

Mark Cited by Petitioner as Basis for Cancellation

| | | | |
|---------------------------------------|---|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
| Registration Date | NONE | | |
| Word Mark | FAMILY WATCHDOG and FAMILYWATCHDOG.COM | | |
| Goods/Services | Services related to home computer, computer network, and internet security, with an emphasis on keeping children and families safe while online | | |

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|-------------|---|
| Attachments | S317001Llmet.cancel.pdf (4 pages)(41228 bytes) |
|-------------|---|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

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|-----------|-------------------|
| Signature | /aph72met/ |
| Name | Annette P. Heller |
| Date | 01/07/2008 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark Registration No.: **3,157,991**

For the mark: **FAMILY WATCHDOG**

Registration Date: **October 17, 2006**

Lester H. Schweiss (a/k/a Chip Schweiss)
Petitioner,

v.

Cancellation No. _____

Family Watchdog, LLC
Registrant.

PETITION TO CANCEL

Lester H. Schweiss (“Petitioner”) is a United States citizen, located and doing business at 4038 Avery Ln., Bridgeton, Missouri 63044.

To the best of Petitioner’s knowledge, the name and address of the current owner of the registration is Family Watchdog, LLC, 1950 E. Greyhound Pass, Suite 18-352, Carmel, Indiana 46033 (“Registrant”).

Pursuant to 37 C.F.R. §2.111(b), the above-identified Petitioner believes he is or will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Registrant is the owner of U.S. Registration No. 3,157,991 for the mark, FAMILY WATCHDOG, for “security services, namely, a sexual offender, crime, and criminal registry, search, and notification service.”

2. Registrant’s registration issued on the Principal Register on October 17, 2006. As such, Registrant’s registration is not incontestable.

3. The underlying application filing date of Registrant’s registration is November 9, 2005.

4. Registrant’s registration states that Registrant’s first use of the mark, FAMILY WATCHDOG, occurred at least as early as April 10, 2005, and that Registrant’s first use of the mark in interstate commerce occurred at least as early as June 7, 2005.

5. In late 2004 or early 2005, Petitioner chose the name, FAMILY WATCHDOG, for use in connection with the offering of products and services related to home computer, computer network, and internet safety and security, with an emphasis on keeping children and families safe while online.

6. On January 7, 2005, Petitioner registered the domain names www.familywatchdog.com, www.familywatchdog.net, and www.familywatchdog.org.

7. In February of 2005, Petitioner developed printed marketing and informational materials bearing the marks FAMILY WATCHDOG and FAMILYWATCHDOG.COM and they were distributed to the general public at a business expo in the St. Louis metropolitan area.

8. Furthermore, in February of 2005, Petitioner’s website featuring the marks, FAMILY WATCHDOG and FAMILYWATCHDOG.COM, went live and was accessible at www.familywatchdog.com.

9. As such, Petitioner's first use of FAMILY WATCHDOG and FAMILYWATCHDOG.COM, in association with his services, precedes both the underlying application filing date of Registrant's registration and Registrant's first use dates as listed in the registration.

10. Because the services of both Petitioner and Registrant involve educating and protecting children and their families from criminals and other offenders, Petitioner reasonably believes that he has or will be damaged by the continued registration of Registration No. 3,157,991, since Registrant's mark, when used on or in connection with its services, so resembles the mark previously used by Petitioner in the United States as to be likely to cause confusion, to cause mistake, or to deceive.

11. Furthermore, at the time Registrant filed its application to register the mark, FAMILY WATCHDOG, Registrant knew of Petitioner's prior use of FAMILY WATCHDOG and FAMILYWATCHDOG.COM, but did not cite such concurrent use in its application.

12. Petitioner is damaged by the continued registration of Registration No. 3,157,991 because Registrant has invoked the protections of the Anti-Cybersquatting Act, 15 U.S.C. §1125(d) and has contacted Petitioner's website host requesting that it shut down Petitioner's website solely on the basis of Registrant's ownership of Registration No. 3,157,991.

13. As a result of Registrant's substantive omissions, Registrant fraudulently obtained its registration for FAMILY WATCHDOG, thus causing substantial damage to Petitioner.

WHEREFORE, Petitioner is or will be damaged by said trademark Registration No. 3,157,991, and prays that the same be canceled in whole pursuant to 15 U.S.C. §1064.

Respectfully submitted,

By: /aph72met/
Annette P. Heller and Morris E. Turek, Attorneys for Petitioner
Heller & Associates
14323 S. Outer Forty Dr., Suite 512 S
Town & Country, MO 63017
Tel: (314) 469-2610 Fax: (314) 469-4850

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition to Cancel has been served by mailing said copy on January 7, 2008 via Certified Mail, postage prepaid, to:

Family Watchdog, LLC
1950 E. Greyhound Pass, Suite 18-352
Carmel, Indiana 46033-7787

 /aph72met/
Annette P. Heller, Attorney